include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers, and who is jointly selected by the Director and the chairperson of the SILC, or other individual designated by the SILC to act on behalf of and at the direction of the SILC.

(d) A copy of each review under this section shall be provided to the Secretary and the SILC.

(Approved by the Office of Management and Budget under control number 1820–0018)

(Authority: 29 U.S.C. 711(c) and 796f–2(g)(1) and (h))

Subpart E—Enforcement and Appeals Procedures

§ 366.39 What procedures does the Secretary use for enforcement?

(a) If the Secretary determines that any center receiving funds under this part is not in compliance with the standards and assurances in section 725 (b) and (c) of the Act and subparts F and G of this part, the Secretary immediately notifies the center, by certified mail, return receipt requested, or other means that provide proof of receipt, that the center is out of compliance. The Secretary also offers technical assistance to the center to develop a corrective action plan to comply with the standards and assurances.

(b) The Secretary terminates all funds under section 721 of the Act to that center 90 days after the date of the notification required by paragraph (a) of this section unless—

(1) The center submits, within 90 days after receiving the notification required by paragraph (a) of this section, a corrective action plan to achieve compliance that is approved by the Secretary; or

(2) The center requests a hearing pursuant to paragraph (c) or (d) of this section.

(c) If the Secretary does not approve a center's corrective action plan submitted pursuant to paragraph (b)(1) of this section, the center has 30 days from receipt of the Secretary's written notice of disapproval of the center's corrective action plan to request a hearing by submitting a formal written request that gives the reasons why the

center believes that the Secretary should have approved the center's corrective action plan.

(d) If the center does not submit a corrective action plan to the Secretary, the center has 90 days after receiving the notification required by paragraph (a) of this section to request a hearing by submitting a formal written request that gives the reasons why the center believes that the Secretary should have found the center in compliance with the standards and assurances in section 725 (b) and (c) of the Act and subparts F and G of this part.

(e) The date of filing a formal written request for a hearing to the Secretary under paragraph (c) or (d) of this section is determined in a manner consistent with the requirements of 34 CFR 81.12.

(f) The Secretary issues a written decision to terminate funds to the center if, after providing reasonable notice and an opportunity for a hearing, the Secretary finds that—

(1) The center receiving funds under this part is not in compliance with the standards and assurances in section 725 (b) and (c) of the Act and subparts F and G of this part; or

(2) The center's corrective action plan submitted under paragraph (b)(1) of this section cannot be approved.

(g) The Secretary's decision to terminate funds to a center pursuant to paragraph (f) of this section takes effect upon issuance.

(Approved by the Office of Management and Budget under control number 1820–0018)

(Authority: 29 U.S.C. 711(c) and 796f–1(g))

§ 366.40 How does the Director initiate enforcement procedures?

(a) If the Director determines that any center receiving funds under this part is not in compliance with the standards and assurances in section 725 (b) and (c) of the Act and subparts F and G of this part, the Director shall immediately provide the center, by certified mail, return receipt requested, or other means that provide proof of receipt, with an initial written notice that the center is out of compliance with the standards and assurances and that the Director will terminate the center's funds or take other proposed significant adverse action